

**DRAFT – FOR DISCUSSION PURPOSES ONLY**  
**March 9, 2018**

**Section 100.2055 Standard Exemption (IITA Section 204)**

- a) *In computing net income, ~~each taxpayer is there shall be~~ allowed as an exemption the sum of the basic amounts provided under subsections (b) and (c) plus the additional exemptions allowed under subsection (d), multiplied by a fraction, the numerator of which is the amount of the taxpayer's base income allocable to this State for the taxable year and the denominator of which is the taxpayer's total base income for the taxable year. (IITA Section 204(a))*
  
- b) Each taxpayer shall be allowed an exemption in the basic amount equal to:
  - 1) in the case of an individual:
    - A) *for taxable years ending prior to December 31, 1998, \$1,000; (IITA Section 204(b))*
    - B) *for taxable years ending on or after December 31, 1998 and prior to December 31, 1999, \$1,300; (IITA Section 204(b)(1))*
    - C) *for taxable years ending on or after December 31, 1999 and prior to December 31, 2000, \$1,650; (IITA Section 204(b)(2))*
    - D) *for taxable years ending on or after December 31, 2000, and prior to December 31, 2012, \$2,000; (IITA Section 204(b)(3))*
    - E) *for taxable years ending on or after December 31, 2012 and prior to December 31, 2013 and for taxable years beginning on or after June 1, 2017, \$2,050; (IITA Section 204(b)(4))*
    - F) *for taxable years ending on or after December 31, 2013 and beginning prior to June 1, 2017, \$2,050 plus the cost-of-living adjustment under subsection (e); (IITA Section 204(b)(5)) and*
    - G) *because the increase of the basic amount to \$2,050 in subparagraph (E) and the cost-of living adjustment in subsection (e) are subject to sunset under IITA Section 250, the basic amount is \$2,000 for taxable years beginning on or after June 1, 2017, the fifth anniversary of the effective date of Public Act 97-0652.*
  - 2) *for taxable years ending on or after December 31, 1992, an individual ~~is not shall not be~~ taxpayer whose Illinois base income exceeds the basic amount and who is claimed as a dependent on another person's tax return under the Internal Revenue Code ~~is not shall not be~~ allowed any basic amount under this subsection (b). (IITA Section 204(b))*

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

- 3) in the case of a corporation, \$1000 for taxable years ending prior to December 31, 2003 and \$0 for taxable years ending on or after December 31, 2003. (IITA Section 204(b))
  - 4) in the case of an organization exempt from tax under IITA Section 205(a), \$0. (See IITA Section 205.)
  - 5) in all other cases, \$1,000. (See IITA Section 204(b).)
- c) Each individual taxpayer ~~is shall be~~ allowed an additional exemption equal to the basic amount for each exemption in excess of one allowable to that individual taxpayer for the taxable year under 26 USC 151. (IITA Section 204(c))
- d) Additional Exemptions
- 1) Each individual taxpayer is allowed:
    - A) *an additional exemption of \$1,000 for the taxpayer if he or she has attained the age of 65 before the end of the taxable year; (IITA Section 204(d)(1))*
    - B) *an additional exemption of \$1,000 for the taxpayer if he or she is blind at the end of the taxable year; (IITA Section 204(d)(2))*
    - C) *an additional exemption of \$1,000 for the spouse of the taxpayer if the spouse has attained the age of 65 before the end of the taxable year plus an additional exemption of \$1,000 for the spouse of the taxpayer if the spouse is blind as of the end of the taxable year and, in either case:
      - i) *a joint return is not made by the taxpayer and his or her spouse;*
      - ii) *for the calendar year in which the taxable year of the taxpayer begins, the spouse has no gross income and is not the dependent of another taxpayer. (IITA Section 204(d)(1) and (2))**
  - 2) *For purposes of this subsection (d), an individual is blind only if his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his or her visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual fields subtends an angle no greater than 20 degrees. A spouse who dies before the end of a taxpayer's taxable year and who is blind at the time of his or her death ~~is shall be~~ treated as blind as of the end of the taxable year. (IITA Section 204(d)(2))*

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

- e) *The cost-of-living adjustment for any calendar year and for taxable years ending prior to the end of the subsequent calendar year is equal to \$2,050 times the percentage (if any) by which the Consumer Price Index for the preceding calendar year, exceeds the Consumer Price Index for the calendar year 2011. For purposes of this subsection (e):*
- 1) *The Consumer Price Index for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of that calendar year.*
  - 2) *The term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the United States Department of Labor or any successor agency.*
  - 3) *If any cost-of-living adjustment is not a multiple of \$25, that adjustment ~~is shall be~~ rounded to the next lowest multiple of \$25. (IITA Section 204(d-5))*
- f) *In the case of a taxable year for a period of less than 12 months, the standard exemption allowed under this Section ~~is shall be~~ prorated on the basis of the number of days in that year to 365. (IITA Section 401(b))*
- g) *Notwithstanding any other provision of law, for taxable years beginning on or after January 1, 2017, if the taxpayer's adjusted gross income for the taxable year exceeds \$500,000, in the case of spouses filing a joint federal tax return or \$250,000, in the case of all other taxpayers, the exemption allowed under this section is zero. (IITA Section 204(g)) For purposes of this provision, each spouse is a separate taxpayer. This provision applies to partnerships, trusts and estates as well as to individuals.*

(Source: Added at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.2160 Research and Development Credit (IITA Section 201(k))**

- a) *For tax years ending after July 1, 1990 and prior to December 31, 2003, and tax years ending on or after December 31, 2004 and prior to January 1, 2022 ~~January 1, 2016~~, ~~each a~~ taxpayer ~~is shall be~~ allowed a credit against the tax imposed by IITA Section 201(a) and (b) for increasing research activities in this State. It is the intent of the General Assembly that the research and development credit under IITA Section 201(k) applies continuously for all tax years ending on or after December 31, 2004 and ending prior to January 1, 2022, including, but not limited to, the period beginning on January 1, 2016, the date on which the credit expired prior to enactment of Public Act 100-0022, and ending on July 6, 2017, the effective date of Public Act 100-0022. All actions taken in reliance on*

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

*the continuation of the credit under IITA Section 201(k) by any taxpayer are hereby validated.* (IITA 201(k), as amended by Public Act 100-0022);

- b) *The credit allowed ~~is shall be~~ equal to 6½% of the qualifying expenditures for increasing research activities in this State* (IITA Section 201(k)).
- c) Not all "research" qualifies will qualify for the credit. Nor does will every expenditure associated with research qualify for the credit. Qualified research is defined in 26 USC IRC section 41(d). Qualifying expenditures means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under 26 USC IRC section 41 and which are conducted in this State.
  - 1) 26 USC IRC section 41(b) defines "qualifying research expenses" as the sum of the in-house research expenses and the contract research expenses paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer.
  - 2) Qualifying expenditures also include basic research payments. Basic research payments are defined in 26 USC IRC section 41(e).
- d) Qualifying expenditures for increasing research activities in this State means the excess of qualifying expenditures for the taxable year in which incurred over qualifying expenditures for the base period. Qualifying expenditures for the base period means the average of the qualifying expenditures for each year in the base period.
- e) Base period means the 3 taxable years immediately preceding the taxable year for which the determination is being made. For purposes of computing the average qualifying expenditures for the base period:
  - 1) For taxable years after a taxpayer has succeeded to the tax items of a corporation under IITA Section 405(a), qualifying expenditures incurred by the corporation during the base period are shall be deemed to be qualifying expenditures of the taxpayer.
  - 2) If the taxpayer incurred no qualifying expenditures during a base period year, the qualifying expenditures for that year are zero, even if the taxpayer was not in existence or conducting any business in this State Illinois during that year.
  - 3) If the taxpayer was doing business in this State for only part of a base period year, the qualifying expenditures for that year equals shall be equal to the qualifying expenditures actually incurred, multiplied by 365 and divided by the number of days in the portion of the taxable year during which the taxpayer was doing business in this State.

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

- 4) Qualifying expenditures incurred in taxable years in which the taxpayer did not qualify for the credit, including taxable years ending on or after December 31, 2003 and prior to December 31, 2004 ~~are must be~~ included in the computation of qualifying expenditures for the base period.
- f) *Any credit in excess of the tax liability for the taxable year may be carried forward to offset the income tax liability of the taxpayer for the next 5 years or until it has been fully utilized, whichever occurs first (IITA Section 201(k)), provided that no credit earned in a tax year ending prior to December 31, 2003 may be carried forward to any year ending on or after December 31, 2003. If an unused credit is carried forward to a given year from 2 or more earlier years, that credit arising in the earliest year is applied first. If a tax liability for the given year remains, the credit from the next earliest year is applied. Any remaining unused credit or credits can be carried forward to the next following year in which a tax liability exists. However, the credit can only be carried forward 5 years from the year in which the taxpayer incurred the expense for which the credit was given. Any unused credit is then forfeited.*
- g) Combined Returns. In the case of taxpayers filing combined returns, Section 100.5270(d) details the manner in which the credit is determined.
- h) Pass-through of Credits to Partners and Subchapter S Corporation Shareholders
- 1) For tax years beginning on and after January 1, 1999, partners and shareholders of Subchapter S corporations ~~are shall be~~ allowed a credit under this ~~section subsection (h)~~ to be determined in accordance with the determination of income and distributive share of income under 26 USC Sections 702, 26 USC and 704 and Subchapter S of the Internal Revenue Code (IITA Section 201(k)). No inference ~~may shall~~ be drawn from the enactment of PA 91-644, which expressly allows this pass-through of credits, in construing IITA Section 201(k) for tax years beginning prior to January 1, 1999.
- 2) Repeal and re-enactment of the credit. Due to the repeal of the credit for taxable years ending on or after December 31, 2003, and the re-enactment of the credit for taxable years ending on or after December 31, 2004:
- A) A partner or shareholder ~~is not allowed to may not~~ claim a credit passed through from a partnership or Subchapter S corporation for any taxable year of the partner or shareholder ending on or after December 31, 2003 and prior to December 31, 2004, even if the credit was earned in a taxable year of the partnership or Subchapter S corporation ending prior to December 31, 2003.

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

- B) No credit may be earned by a partnership or Subchapter S corporation for a taxable year ending on or after December 31, 2003 and prior to December 31, 2004, and passed through to a partner or shareholder, even if the partner or shareholder would have reported the credit for a taxable year ending on or after December 31, 2004.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.2165 Education Expense Credit (IITA 201(m)) (This draft includes the amendments in RPG 16-17 regarding kindergartens.)**

- a) *Beginning with tax years ending after December 31, 1999, a taxpayer who is the custodian of one or more qualifying pupils ~~is shall be~~ allowed a credit against the tax imposed by IITA Section 201(a) and (b) subsections (a) and (b) of Section 201 of the Act for qualified education expenses incurred on behalf of the qualifying pupils (the "education expense credit"). The education expense credit shall be equal to 25% of qualified education expenses, but the ~~total maximum~~ education expense credit allowed to a family that is the custodian of qualifying pupils ~~is \$500 for shall not exceed \$500 in~~ any tax year ~~ending prior to December 31, 2017, and \$750 for any tax year ending on or after December 31, 2017, regardless of the number of qualifying pupils. The education expense credit taken shall not reduce a taxpayer's liability under the Act to less than zero. Notwithstanding any other provision of law, for taxable years beginning on or after January 1, 2017, if the taxpayer's adjusted gross income for the taxable year exceeds \$500,000, in the case of spouses filing a joint federal tax return or \$250,000, in the case of all other taxpayers, the credit allowed under this section is zero. For purposes of this provision, each spouse is a separate taxpayer.~~ (IITA Section 201(m)) ~~Therefore, no~~ No part of the education expense credit is refundable to the custodian in the event the custodian's tax liability is reduced to zero.*
- b) *~~A For a~~ taxpayer ~~may to~~ claim the education expense credit only if, the taxpayer ~~is must be~~ the custodian of one or more qualifying pupils and ~~has have~~ incurred qualified education expenses on behalf of the qualifying pupils.*
- 1) *"Qualifying pupils" ~~shall means~~ individuals who that are:*
- A) *residents of the State of Illinois,*
- B) *under the age of 21 at the close of the school year for which a credit is sought, and*
- C) *full time pupils enrolled in a kindergarten through twelfth grade education program at any school during the school year for which a credit is sought (IITA Section 201(m)).*

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

An individual under the age of 21 and graduating from the twelfth grade during a school year ~~is shall be~~ considered a qualifying pupil for the year but only to the extent of qualified education expenses incurred by the custodian due to the qualifying pupil's enrollment in the twelfth grade.

- 2) *"Custodian" of qualifying pupils shall mean* an Illinois resident(s) who is a parent, the parents, a legal guardian, or the legal guardians of the qualifying pupils (IITA Section 201(m)).
- A) A foster parent, or the foster parents, or an adoptive parent, or the adoptive parents ~~are shall be~~ included within the meaning of parent or legal guardian for purposes of determining the custodian of qualifying pupils.
  - B) Custodian ~~does shall~~ not include a parent or the parents of qualifying pupils whose parental rights over ~~the such~~ qualifying pupils have been legally terminated.
  - C) ~~A The custodian must actually incur qualified education expenses in order to claim the education expense credit. Therefore, a~~ custodian incurring qualified education expenses on behalf of qualifying pupils ~~may shall~~ claim the education expense credit only to the extent of qualified education expenses actually paid for by that custodian.
  - D) The education expense credit claimed shall not exceed the ~~applicable \$500 or \$750~~ credit limit allowable to a family that is the custodian of qualifying pupils. Therefore, the divorced or unmarried parents of qualifying pupils, each of whom is the custodian of the qualifying pupils and each of whom incurs education expenses on behalf of such pupils, ~~are shall be~~ considered the family of such qualifying pupils for purposes of the ~~applicable \$500 or \$750~~ credit limit.
- 3) *"School", for purposes of the education expense credit, means any public or nonpublic elementary or secondary school in Illinois that is in compliance with Title VI of the Civil Rights Act of 1964 and attendance at which satisfies the requirements of Section 26-1 of the School Code [105 ILCS 5/26-1], except that nothing shall be construed to require a child to attend any particular public or nonpublic school in order to qualify for the education expense credit (IITA Section 201(m)). Schools that are not required to be in compliance with the Title VI of the Civil Rights Act of 1964 but attendance at which meets the compulsory education requirements of Section 26-1 of the School Code are included within the meaning of "school" for purposes of the education expense credit. Private*

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

schools providing educational instruction in the home, attendance at which meets the compulsory education requirements of Section 26-1 of the School Code, are included within the meaning of "school" for purposes of the education expense credit. For school years prior to the 2014-2015 school year, Section 26-1 of the School Code required attendance beginning with 7-year-olds required to attend first grade or higher. A school that provided kindergarten, but not first grade or higher, therefore did not qualify as a school for which the credit is allowed under this Section. Public Act 98-544 amended Section 26-1 of the School Code to require attendance in kindergarten or higher for 6-year-olds starting with the 2014-2015 school year. Accordingly, beginning with the 2014-2015 school year, a school providing kindergarten may qualify, even if it does not provide first grade or higher.

4) *"Qualified education expenses" shall mean amounts incurred on behalf of a qualifying pupil in excess of \$250 for tuition, book fees, and lab fees at the school in which the qualifying pupil is enrolled during the regular school year (IITA Section 201(m)).* Amounts incurred for tuition, book fees and lab fees by a family that is the custodian of more than one qualifying pupil may aggregate all tuition, book fees and lab fees incurred by the family in arriving at qualified education expenses eligible for the credit.

A) Tuition is the amount paid to a school as a condition of enrollment for a quarter, semester or year term in a kindergarten through twelfth grade education program of the school. Enrollment in an education program ~~shall mean~~ admission to the full and regular schedule of classroom instruction of the school during the designated period. Tuition also includes amounts paid as a condition of enrollment on behalf of a school to cover costs of implementing and administering an education program.

B) Book fees are amounts paid for the use of books that are essential to a qualifying pupil's participation in the education program of the school. A book is essential when the school or an instructor of the school requires its use by the qualifying pupil in order to participate in and complete a course of the education program.

C) Lab fees are amounts paid for the use of supplies, equipment, materials or instruments that are essential to a qualifying pupil's participation in a lab course of the school's education program. Supplies, equipment, materials or instruments are essential when the school or an instructor of the school requires their use by the qualifying pupil in order to participate in and complete a lab course of the education program. Lab courses include those courses that, in addition to classroom instruction by a teacher, provide an



**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

environment of organized activity involving observation, experimentation or practice in a course of study. ~~Lab~~ ~~Such~~ courses of study include those courses with a scientific, musical, artistic, technical or language skill content. Lab fees may be in the nature of a rental fee for supplies, equipment, materials or instruments that are used in the lab course. Fees incurred for the purchase of supplies, equipment, materials or instruments used in a lab course and which are substantially consumed by the assignments and activities of the lab are also considered qualifying lab fees.

Any amount paid for the purchase of items that would be considered qualified education expenses but for the fact that the items are not substantially consumed during the school year and will remain the tangible personal property of a qualifying pupil or a custodian at the conclusion of the school year ~~is not a shall not be considered~~ qualified education ~~expense~~ ~~expenses~~. For purposes of this Section, an item is substantially consumed when, during the school year, the item is used to ~~the such an~~ extent that its fair market value has been reduced to a de minimis amount.

- c) Examples. Calculation of the education expense credit may be illustrated by the following examples. For each example, it is assumed that the taxpayer's adjusted gross income for the taxable year is not greater than \$500,000 (in the case of each spouse filing a joint federal income tax return) or \$250,000 (in the case of all other taxpayers). ÷
- 1) EXAMPLE ~~Example~~-1. Family A is the custodian of two qualifying pupils. Family A incurs a total of \$6,000 in tuition, book fees and lab fees for the education of both pupils during the calendar year. The first \$250 incurred for tuition, book fees and lab fees is not included as a qualified education expense. The balance of \$5,750 (\$6,000 - \$250) multiplied by 25% equals \$1,437.50. Family A may only claim the maximum tax credit allowable of \$500 (for taxable years ending prior to December 31, 2017) or \$750 (for taxable years ending on or after December 31, 2017).
  - 2) EXAMPLE ~~Example~~-2. Family B is the custodian of one qualifying pupil. Family B incurs a total of \$2,250 in tuition, book fees and lab fees for the education of the qualifying pupil during the calendar year. Family B also incurs \$200 for the purchase of a musical instrument used by the qualifying pupil while participating in the school band. The \$200 incurred for the purchase of a musical instrument is an expense that does not qualify for the credit. The first \$250 incurred for tuition, book fees and lab fees is not included as a qualified education expense. The balance of \$2,000 (\$2,250-\$250) multiplied by 25% equals \$500. Family B may claim a credit for the entire ~~maximum tax credit allowable of~~ \$500.

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

- 3) ~~EXAMPLE Example~~-3. Family C is the custodian of four qualifying pupils. Family C incurs a total of \$1,000 in book fees and lab fees for the education of all four qualifying pupils during the calendar year. Family C also incurs a total of \$50 for the purchase of books used in completing book reports required by the school. The \$50 incurred for the purchase of books is an expense that does not qualify for the credit. The first \$250 incurred for book fees and lab fees is not included as a qualified education expense. The balance of \$750 (\$1,000 - \$250) multiplied by 25% equals \$187.50. Family C may claim a tax credit of \$187.50.
  
- d) To aid a custodian in claiming the education expense credit, a school should provide to the custodian a written receipt documenting education expenses paid to the school by the custodian on behalf of qualifying pupils during the calendar year. The written receipt should be provided to the custodian on or before January 31 of the succeeding calendar year. Where a school provides a written receipt to a custodian, it ~~shall be a receipt should use the form~~ prescribed by the Department ~~and which shall~~ include the following information:
  - 1) the designated calendar year during which the education expenses were paid,
  - 2) the name and address of the school,
  - 3) the name and address of the custodian,
  - 4) the name(s) and social security number(s) of the qualifying pupil or pupils,
  - 5) a list of education expense amounts paid for tuition, book fees and lab fees during the calendar year, and
  - 6) the total of all such education expenses paid during the calendar year. All information contained on the written receipt provided by a school is deemed confidential information for use as supporting documentation of the education expense credit claimed and shall not be used for any other purpose.
  
- e) ~~(Repealed) A custodian shall use a school's written receipt of education expenses as documentation supporting the education expense credit claimed on the custodian's individual income tax return. A copy of the written receipt shall be filed with the return for the taxable year to which it relates. In the event a school's written receipt of education expenses is not made available to a custodian, the custodian shall complete and file with the custodian's return the schedule prescribed by the Department for taking the credit. The education expense credit shall not be taken without either a school's written receipt or a schedule being filed with the return.~~

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

- f) A custodian filing a return claiming the education expense credit ~~should shall~~ maintain records of proof as to the education expenses paid for by the custodian. The custodian ~~should shall~~ maintain the records for a period of not less than three years after the date the return on which the custodian claimed the education expense credit was filed. ~~Records Such records~~ maintained by the custodian ~~are shall be~~ subject to inspection by the Department and its duly authorized agents and employees.
- g) The education expense credit for qualified education expenses incurred ~~is allowed must be claimed~~ for the tax year in which the qualified education expenses are actually paid. Any part of the education expense credit not claimed or allowed in a given tax year ~~may shall~~ not be carried forward or back to any other tax year. Likewise, where qualified education expenses are incurred in excess of the allowable education expense credit for any given tax year, the excess of qualified education expenses shall not be used in claiming the education expense credit for any other tax year.
- h) This section is exempt from automatic sunset under the provisions of IITA Section 250.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.2171 Angel Investment Credit (IITA 220)**

- a) For taxable years beginning on and after January 1, 2011, and ending ~~on or before December 31, 2021 before January 1, 2017~~, a claimant (as defined under 14 Ill. Adm. Code 531.20) may claim a credit against the tax imposed under IITA Sections 201(a) and (b) in an amount equal to 25% of the Angel Investment (as defined under 14 Ill. Adm. Code 531.20) made by the claimant and that is shown on the Tax Credit Certificate issued by the Department of Commerce and Economic Opportunity (DCEO) under 14 Ill. Adm. Code 531.70. *A claimant may not sell or otherwise transfer a credit awarded under this Section to another person.* (IITA Section 220(g))
- b) Year in Which Credit is Taken. The credit allowed under this Section shall be taken in the taxable year that includes the date of the Tax Credit Certificate issued by DCEO under 14 Ill. Adm. Code 531.70.
- c) In the case of a credit earned by a partnership or subchapter S corporation, the credit passes through to the owners as provided in the partnership agreement under ~~26 USC IRC section~~ 704(a) or in proportion to their ownership of the stock of the subchapter S corporation under ~~26 USC IRC section~~ 1366(a). The credit earned by a partnership or subchapter S corporation ~~is will be~~ treated as earned by its owners as of the last day of the taxable year of the partnership or subchapter S corporation in which the Tax Credit Certificate is issued by DCEO under 14 Ill. Adm. Code 531.70, and ~~is shall be~~ allowed to each owner in the taxable year of

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

the owner in which the taxable year of the partnership or subchapter S corporation ends.

- d) *The credit under this Section is limited to ~~may not exceed~~ the taxpayer's Illinois income tax liability under IITA Section 201(a) and (b) for the taxable year. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit ~~is shall be~~ applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit ~~is shall be~~ applied first. (IITA Section 220(b))*
- e) *Recapture. If, as determined by DCEO, an investment for which a claimant is allowed a credit under this Section is held by the claimant for less than 3 years, or, if within that period of time the qualified new business venture is moved from the State, ~~the claimant shall pay to the Department of Revenue, on forms prescribed by the Department of Revenue,~~ the amount of the credit that the claimant received related to the investment is payable by the claimant to the Department of Revenue, on forms prescribed by the Department of Revenue. DCEO shall annually certify that the claimant's investment has been made and remains in the qualified new business venture for no less than 3 years. (IITA Section 220(d))*
- f) *Documentation of the Credit. A taxpayer's claim to the credit is documented by attaching ~~A claimant shall attach~~ to its Illinois income tax return a copy of the Tax Credit Certificate and/or annual certification (if any) issued by DCEO and, in the case of a partner in a partnership or shareholder of a subchapter S corporation that earned the credit, a Schedule K-1-P or other written statement from the partnership or subchapter S corporation stating the portion of the total credit shown on the Tax Credit Certificate that is allowed to that partner or shareholder and the taxable year of the partnership or subchapter S corporation in which the Tax Credit Certificate was issued.*

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.2180 Credit for Residential Real Property Taxes (IITA 208)**

- a) *Beginning with tax years ending on or after December 31, 1991, every individual taxpayer ~~is shall be~~ entitled to a tax credit equal to 5% of real property taxes paid by ~~the such~~ taxpayer during the taxable year on the principal residence of the taxpayer. In the case of multi-unit or multi-use structures and farm dwellings, the taxes on the taxpayer's principal residence ~~are shall be~~ that portion of the total taxes which is attributable to such principal residence. Notwithstanding any other provision of law, for taxable years beginning on or after January 1, 2017, no taxpayer is allowed a credit under this section if the taxpayer's adjusted gross income for the taxable year exceeds (i) \$500,000, in the case of spouses filing a*

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

joint federal tax return, or (ii) \$250,000, in the case of all other taxpayers. For purposes of this provision, each spouse is a separate taxpayer. (IITA Section 208).

- b) A taxpayer will qualify for the property tax credit if:
- 1) the taxpayer's principal residence during the year preceding the tax year at issue was in Illinois, and
  - 2) the taxpayer owned the residence, and
  - 3) the property tax billed in the tax year at issue has been paid. This is the amount paid after factoring in any applicable exemptions.
- c) The credit may be based on the entire property tax bill if:
- 1) the taxpayer lived in the same residence during all of the year preceding the tax year at issue, and
  - 2) the tax bill included property used only for the taxpayer's personal residence, yard, garage, or other structure used for personal purposes. If the property tax bill included not only taxpayer's personal residence, but also business, rental, or farm property, that credit may be calculated only on that portion of the property tax bill that is for the personal residence. The credit is not allowed ~~may not be taken~~ for a vacation home.
- Credit is not allowed ~~may not be taken~~ for mobile home privilege tax.
- d) If taxpayer sold a principal residence in the year preceding the tax year at issue, he or she is not allowed ~~may not take~~ a credit for the tax year at issue. In this ~~such a~~ situation, taxpayer will not have paid property taxes during the taxable year on that ~~his~~ principal residence. Property taxes in Illinois are assessed on a property in one year and paid in the next year. In other words, in 1994 taxpayers pay 1993 taxes. In order to qualify for the credit granted by IITA Section 208 during 1994, a taxpayer must have ownership of an Illinois principal residence during 1993. An amount representing property taxes for the period of ownership of the taxpayer in the year preceding the tax year at issue will have been paid to the buyer of the taxpayer's former residence. Therefore, taxpayer is ~~will be~~ authorized to take an additional amount of credit for property taxes paid to buyer upon sale of the residence in the year preceding the tax year at issue, but will have no credit in the subsequent year.

EXAMPLE: Taxpayer A sells his or her principal residence to B on July 1, 1991. Taxpayer A owned and resided in the principal residence for all of 1990, and for the first 6 months on 1991. Taxpayer A is entitled to a credit for residential real property taxes on his or her 1991 return in an amount equal to the amount of 1990 taxes paid in 1991. In addition, Taxpayer A is entitled to a credit

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

for 6 months of the 1991 taxes which were paid over to B upon sale of the principal residence on July 1, 1991. Taxpayer A is not entitled to a credit for property taxes paid on this property on his or her 1992 return because no taxes were paid on this residence in 1992. However, if Taxpayer A bought another residence in 1991, Taxpayer A may calculate a credit for that portion of 1991 during which he or she owned and lived at the new property.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2181. Credit for Instructional Materials and Supplies. (IITA Section 225)**

- a) For taxable years beginning on and after January 1, 2017, a taxpayer is allowed a credit in the amount paid by the taxpayer during the taxable year for instructional materials and supplies with respect to classroom based instruction in a qualified school, or \$250, whichever is less, provided that the taxpayer is a teacher, instructor, counselor, principal, or aide in a qualified school for at least 900 hours during a school year. The credit is not allowed to be carried back and is not allowed to reduce the taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit carried forward is applied to the earliest year for which there is a tax liability. If credits for more than one year that are available to offset a liability, the earlier credit is applied first. (IITA Section 225)
- b) For purposes of this section:
- 1) The term "qualified school" means a public school or non-public school located in Illinois. (IITA Section 225) IITA Section 102 provides that, except as otherwise expressly provided or clearly appearing from the context, any term used in this Act has the same meaning as when used in a comparable context in the United States Internal Revenue Code of 1954 or any successor law or laws relating to federal income taxes and other provisions of the statutes of the United States relating to federal income taxes as such Code, laws and statutes are in effect for the taxable year. Accordingly, "school" means a school which provides elementary education or secondary education (kindergarten through grade 12), as provided in the federal income tax deduction allowed to teachers for classroom supplies under 26 USC 62(a)(2)(D) and 62(d)(1).
  - 2) The term "materials and supplies" means amounts paid for instructional materials or supplies that are designated for classroom use in any qualified school. (IITA Section 225) Under IITA Section 102, expenses qualifying for the federal income tax deduction for classroom books, supplies, equipment and other materials under 26 USC 62(a)(2)(D) also qualify for this credit, except that the express provision in 26 USC 62(a)(2)(D)(ii) that

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

nonathletic supplies for courses of instruction in health or physical education do not qualify does not apply for purposes of this credit.

3) A "school year" includes any summer school conducted in the summer immediately following the end of the spring term of the school year.

c) This section is exempt from automatic sunset under the provisions of IITA Section 250. (IITA Section 225)

(Source: Added at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.2199 Illinois Earned Income Tax Credit (IITA Section 212)**

a) With respect to the federal earned income tax credit allowed for the taxable year under 26 USC 32, each individual taxpayer is entitled to a credit against the tax imposed by IITA Section 201(a) and (b). For taxable years beginning on or after January 1, 2000 and ending on or before December 31, 2002, an individual shall be allowed a credit against the tax imposed by IITA Section 201(a) and (b) for the taxable year equal to 5% of the federal earned income tax credit allowed for such taxable year pursuant to IRC Section 32. (IITA Section 212(a)) The amount of the credit allowed is equal to:

1) 5% of the federal tax credit for each taxable year beginning on or after January 1, 2000 and ending prior to December 31, 2012;

2) 7.5% of the federal tax credit for each taxable year beginning on or after January 1, 2012 and ending prior to December 31, 2013;

3) 10% of the federal tax credit for each taxable year beginning on or after January 1, 2013 and beginning prior to January 1, 2017;

4) 14% of the federal tax credit for each taxable year beginning on or after January 1, 2017 and beginning prior to January 1, 2018; and

5) 18% of the federal tax credit for each taxable year beginning on or after January 1, 2018. (IITA Section 212(a))

b) Credit in Excess ~~excess~~ of Liability ~~liability~~.

1) For tax years beginning before January 1, 2003, the credit ~~allowed~~ for the taxable year is not allowed to ~~may not~~ reduce the taxpayer's liability under the IITA to less than zero. *Therefore, no part of the credit is refundable in the event the tax liability of the taxpayer is reduced to zero.* (IITA Section 212(b))

**DRAFT – FOR DISCUSSION PURPOSES ONLY**

**March 9, 2018**

- 2) For tax years beginning on or after January 1, 2003 and ending prior to August 21, 2007 (the effective date of Public Act 95-333), *if the amount of the credit exceeds the income tax liability for the applicable tax year, then the excess credit ~~is refundable shall be refunded~~ to the taxpayer only if the refund is counted towards the State's ability to meet its required Maintenance of Effort to qualify for reimbursement under the federal Temporary Assistance for Needy Families Block Grant.* (IITA Section 212(b) and (b-5))
  - 3) For tax years ending on or after August 21, 2007, *if the amount of the credit exceeds the income tax liability for the applicable tax year, then the excess credit ~~is refundable shall be refunded~~ to the taxpayer.* (IITA Section 212(b))
  - 4) Excess credit ~~is not allowed to may not~~ be carried over to other tax years.
- c) In the case of a nonresident or part-year resident, the Illinois earned income tax credit ~~is shall be~~ equal to ~~the applicable fraction under subsection (a) 5%~~ of that portion of the federal earned income tax credit allowed pursuant to section 32 of the IRC that bears the same ratio as the taxpayer's base income allocable to Illinois bears to the taxpayer's base income everywhere. (See IITA Section 212(a).)

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)